

which it shall be necessary to clear away for the purposes of such work.

¹ [(3) Notwithstanding anything contained in or done under this section the crane on the Post Office pier entered as No. 23 in the said schedule shall whenever and so long as the use thereof may be required by or on behalf of Government, be rendered by the Board available for such use, free of charge.]

■ ¹ [(4) The property specified in Schedule C shall, on and after such date as shall be notified in this behalf by the Governor in Council, vest in the Board.]

² [25A. Nothing in this Act or in any other enactment of the Governor of Bombay in Council shall be deemed to affect the proprietary right of Her Majesty to the bed of the sea facing lands on the shore, which are vested in Her Majesty, or the right of Her Majesty to reclaim any part of the bed of the sea; but the Board shall have, on and along the outer boundary wall or line and to seaward of any such reclamation of a part of the bed of the sea, the same rights, if any, as it would have under this Act or any such enactment, as aforesaid on or along the strand or foreshore or to seaward of the same, if no such reclamation had been made.]

26. All debts and obligations incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the Political Resident on behalf of the Aden port fund shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board;

and all sums of money due to the said Aden port fund shall be deemed to be due to the Board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might but for the passing of this Act have been instituted, by or against the said Political Resident as manager of the Aden port fund, may be continued or instituted by or against the Board.

V.—OF THE POWERS AND DUTIES OF THE BOARD.

Works.

27. (1) The works to be constructed and carried out by the Board may include the following:—

- (a) cleaning, deepening and improving any portion of the port, and the construction, procuring and application of dredges and other machinery for that purpose;

¹ Sub-sections (3) and (4) were added to s. 25 by s. 2 of the Aden Port Trust Act (Amendment) Act, 1895 (Bom. Act I of 1895), *infra*.

² This section was inserted by s. 3 *ibid*.

- (b) Wharves, quays, stages, jetties, piers and docks, with all necessary and convenient arches, drains, landing-places, stairs, fences, roads, railways and approaches ;
- (c) tramways, warehouses, sheds, engines and other appliances for conveying, receiving and storing goods landed, or to be shipped, or otherwise ;
- (d) light-houses, light-ships, beacons, pilot-boats and other appliances necessary for the safe navigation of the port and of the approaches thereto within a distance of three miles from the limits of the port ;
- (e) laying down moorings, and the erection of cranes, scales and all means and appliances necessary for berthing, loading and unloading vessels ;
- (f) reclaiming, excavating, enclosing and raising any part of the fore-shore of the port vested in the Board ;
- (g) procuring and employing steam-vessels for towing vessels into, out of, or within the port ;
- (h) the construction of such works, without the limits of the port, as shall be necessary for the protection of works executed by the Board within the port, and all such other works and appliances as may, in the opinion of the Board, be necessary or desirable for carrying out the purposes of this Act :

But no new work to be commenced without a plan and estimate if its cost shall exceed one thousand rupees ; nor without the sanction of Government to such plan and estimate if the cost shall exceed fifty thousand rupees.

(2) Provided always that no new work, the estimated cost of which exceeds one thousand rupees, shall be commenced by the Board, nor shall any contract be entered into by the Board in respect of any such new work, until a plan and estimate of such work shall have been submitted to the Board and considered and approved by them ; nor shall any new work, the estimated cost of which exceeds fifty thousand rupees, or which forms part of a projected work, the whole of which is estimated or is likely to cost more than fifty thousand rupees, be commenced until such plan and estimate shall have been submitted to, and approved by, Government.

Free landing-places to be provided.

28. The Board shall provide such number of public landing-places as shall, in the opinion of the Political Resident at Aden, be sufficient, from and upon which the public shall be permitted to embark and to land free of charge.

29. The Board may occupy, or remove, or alter any public bathing-place or landing-place within the port, and prohibit the public from resorting to or using the same: Provided that the Board shall provide for the use of the public such other bathing-places, or landing-places, if any, as the Political Resident at Aden may direct.

Removal of
bathing and
landing
places.
Proviso.

Landing and Shipping of Goods.

30. When any wharf, quay, stage, jetty or pier has been made and completed, with sufficient warehouses, sheds and appliances for landing or for shipping goods from and in sea-going vessels, the Board may, with the previous sanction of the Political Resident at Aden, by a notification published in three consecutive numbers of the Bombay Government Gazette, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing, and shipping, or for landing or for shipping, as the case may be, goods from and in sea-going vessels.

Declaration
that
wharves,
etc., are
ready for
receiving,
landing and
shipping
goods.

31. When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds and appliances have been provided as aforesaid, the Board may, with the previous sanction of Government, by an order published in three consecutive numbers of the Bombay Government Gazette, direct that no goods, or that no goods other than a particular class or classes of goods, shall be landed or shipped from or in any sea-going vessel within the port, save at such wharves, quays, stages, jetties and piers, and may, in like manner, alter, vary or revoke any such order: Provided that no order shall be made under this section in respect of the landing or shipping of coals.

If accom-
modation
sufficient, all
sea-going
vessels
compelled to
use wharves,
etc.

32. (1) When any wharf, quay, stage, jetty or pier for receiving, landing or shipping goods from or in vessels, not being sea-going vessels, has been made and completed by the Board, with sufficient warehouses, sheds and appliances in that behalf, the Board may, with the sanction of the Political Resident at Aden, by an order published in three consecutive numbers of the Bombay Government Gazette, declare—

Inland ves-
sels com-
pelled to use
wharves,
etc.

- (a) that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping goods from or in vessels, not being sea-going vessels; and
- (b) that, within certain prescribed limits within the port to be specified in such order, it shall not be lawful to land or ship any goods from or in any vessel not being a sea-going vessel of any class specified in such order, except at such wharf, quay, stage, jetty or pier, nor for any such vessel, while within such limits, to anchor,

fasten or lie within fifty yards of low-water mark without the consent of the Board.

(2) If after such publication any such vessel, while within such limits, so anchors, fastens or lies, the Board may cause the same to be removed out of the said limits.

(3) The Board may in like manner, and with the like sanction, alter, vary or revoke any such order.

Exemptions
from obliga-
tion to use
wharves, etc.

33. (1) Notwithstanding anything contained in sections 31 and 32—

(a) the Political Resident at Aden may, by notification in the Bombay Government Gazette, from time to time permit certain specified vessels or classes of vessels to discharge or ship cargo, or certain specified cargo or classes of cargo, at such part of the port, in such manner, during such period, subject to such payments, and on such conditions as he may think fit, and otherwise grant exemption from the provisions of the said sections ;

(b) military or naval munitions or stores may be landed or shipped at any time and at any place within the limits of the port which the Political Resident at Aden may deem convenient.

(2) The Political Resident at Aden may, by like notification, cancel or modify any notification made by him under clause (a) of sub-section (1).

(3) The Political Resident at Aden may also at any time require that troops and their baggage, and military or naval munitions or stores, be landed or shipped with the least practicable delay, in preference to all other passengers or goods at the time awaiting landing or shipping ; and it shall be incumbent on the Board to give effect to any such requisition.

Discharge
of liability
on goods
landed.

34. (1) Whenever any goods are landed by the Board from any vessel, the Board shall, if so required, give to the master of such vessel a receipt in the form or to the effect set forth in Schedule B, and may in any such receipt include all goods landed from such vessel during one day.

(2) No master or owner of a vessel from which the goods in respect of which such receipt is given may have been landed shall be liable for any loss or damage to such goods which may occur after they have been so landed.

Customs-wharves, etc.

Accommo-
dation to be
provided
for Customs-
officers on
wharves,

35. When Government appoint under the provisions of any Act for the levy of sea-customs duties any wharf, quay, stage, jetty or pier to be a wharf or place for the landing and shipping of goods within the meaning of such Act, the Board shall set apart, maintain and secure on or in such wharf, quay,

¹ See Act 8 of 1878, General Acts, Vol. II.

stage, jetty or pier, such portion thereof or place therein, or adjoining thereto for the use of the officers of Customs as the Political Resident at Aden approves or appoints in that behalf.

etc., appointed under Sea Customs Act.

36. Notwithstanding that any wharf, quay, stage, jetty or pier, or portion thereof, has, under the provisions of the last section, been set apart for the use of the officers of Customs, all rates, tolls, charges and rents payable under this Act in respect thereof, or for the use thereof, shall be paid and be payable to the Board or to such persons as they may appoint to receive the same.

Dues at Customs-wharves, etc.

Erection of Wharves, etc., by Private Persons.

37. (1) Save as hereinafter provided, no person except the Board shall make, erect or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier erection or mooring.

Private wharves, etc., prohibited.

(2) Any matter or thing so made, erected or fixed may be removed by the Board, and the person who has so made, erected or fixed any such matter or thing shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to one hundred rupees for every day during which such matter or thing has been permitted to remain so made, erected or fixed after notice to remove the same has been given to him, and shall also be liable to pay all expenses which may have been incurred by the Board in removing such matter or thing.

38. The Board may, by an order in writing and subject to the conditions contained in the same, permit any person to make, erect or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier erection or mooring.

Power to permit erection of private wharves, etc., within the port subject to conditions.

39. In case any wharf, dock, quay, stage, jetty, pier erection or mooring is, without the consent in writing of the Governor in Council, made, erected or fixed below high-water mark without the limits for the time being of the port, and thereafter the limits of the port are extended so as to include the place in which such wharf, dock, quay, stage, jetty, pier erection or mooring has been made, erected or fixed, the Board may remove, fill up or destroy such wharf, dock, quay, stage, jetty, pier erection or mooring without making any compensation therefor.

Wharves, etc., beyond port limits.

¹ The words "after the date on which this Act comes into force" were repealed by the Amending Act, 1895 (16 of 1895), Vol. I of this Code.

Rates.

Scale of tolls, rates and charges to be framed with the approval of Government.

40. (1) The Board shall frame, and may from time to time alter—

- (a) a scale of tolls on the landing and shipping of goods from and in sea-going vessels and vessels not being sea-going vessels respectively, at any place within the port;
- (b) a scale of rate for the use of the moorings, wharves, quays, stages, jetties and piers belonging to the Board, and for the storing and keeping of any goods stored in any premises belonging to the Board;
- (c) a scale of charges for the landing and shipping of goods by the servants of the Board, and for the removal of goods, and for any services to be performed by the Board or their servants in respect of any vessel or goods, or for the use of any works or appliances to be provided by the Board.

(2) Such scales or altered scales shall be submitted, through the Political Resident at Aden, to Government, and, after approval or modification by Government, shall be published in the Bombay Government Gazette, and shall thereupon have the force of law: Provided that no such scale or altered scale shall be approved or modified by Government until a draft of the same and a notice specifying a date at or after which the draft will be submitted to Government shall have been published in the Bombay Government Gazette and in such other manner as Government from time to time prescribe.

(3) Nothing in sub-section (1) or (2) shall be deemed to authorize—

- (a) the inclusion in any scale framed or approved thereunder of any toll, rate or charge in respect of military or naval munitions or stores, or, for such time as a vessel is landing or shipping any such munitions or stores, in respect of any such vessel;

* * * * *

(4) *Rep. Act XVI of 1895.*

Tolls, rates and charges may be remitted in special cases.

41. Government may, in special cases, remit the whole or any portion of any toll, rate or charge leviable under the last preceding section.

¹ For notification publishing a scale of tolls, rates, etc., see Bombay Local Rules and Orders.

² Cl. 3 (b) was repealed by s. 3 of the Indian Tolls (Army) Act, 1901 (2 of 1901), General Acts, Vol. V.

42. Tolls on the landing and shipping of goods may be collected by Agency for officers and servants appointed by the Board in this behalf, or by any person of collection of tolls on whom the Board appoint to be their agent for this purpose, or may be framed landing and shipping of or compounded for, either wholly or in part, by the Board for any period not goods. exceeding one year at a time.

43. (1) For the amount of all tolls, rates and charges leviable under this Board's lien Act in respect of any goods, the Board shall have a lien on such goods, which on goods for tolls and may be seized and detained until such tolls, rates and charges are fully charges. paid.

(2) Tolls, rates and charges in respect of goods to be landed shall become payable immediately on the landing of the goods, and, in respect of goods to be removed from the premises of the Board or to be shipped for export, shall be payable before the goods are removed or shipped or taken on board a lighter for the purpose of being shipped.

(3) The lien for such tolls, rates and charges shall have priority over all other liens and claims, except a lien for freight, primage and general average, or for lighterage, where such lien has been preserved in the manner hereinafter provided, and a lien for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force.

44. (1) If, at or before the time of landing from any vessel of any goods Prior lien at any wharf, quay, stage, jetty or pier belonging to the Board, the master or on goods owner of such vessel, or the person by whom the goods are landed, gives to the for freight, etc. Board notice in writing that such goods are to remain subject to a lien for freight, primage or general average, or for lighterage, as the case may be, of an amount to be mentioned in such notice, such goods shall continue liable, after the landing thereof, to such lien.

(2) Such goods shall be retained either in the warehouses and sheds of the Board, or, with the consent of the Political Resident at Aden, in a public warehouse, at the risk and expense of the owner of the said goods, until the lien is discharged as hereinafter mentioned.

45. Upon the production to any officer appointed by the Board in that Discharge behalf of a document purporting to be a receipt for, or a release from, the of lien for amount of any lien to which any goods are liable under the last preceding freight, etc. section, executed by the person by or on whose behalf notice of such lien has been given, the Board may permit such goods to be removed without regard to such lien : Provided they shall have used reasonable care in respect to the authenticity of such document.

Goods may
be removed
to warehouse.

46. (1) Whenever goods which have been landed have, without any default on the part of the Board, been left for five clear days on or in any wharf or shed belonging to the Board, the Board may cause such goods to be removed either to any warehouse belonging to them, or, with the consent of the Political Resident at Aden, to a public warehouse; and the removal to and detention in any such warehouse shall be at the risk and expense of the owner of the said goods.

Liability of
consignee.

(2) Whenever any goods are so removed, the Board shall give notice of such removal to the consignee of such goods or to his agent, if any, if such consignee's or agent's address be known, by letter sent by post to such address or left thereat; and the consignee of such goods, in addition to the expenses of the removal of the same, shall be liable, in case the goods are removed to any warehouse of the Board, to a charge for warehousing for the time during which the goods shall remain in the said warehouse.

(3) If the goods are removed to a public warehouse, the said consignee shall be liable to the charges for warehousing goods in such public warehouse; and the said goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the Board and shall be subject to the power of sale hereinafter given.

Recovery of
tolls, rates
and charges
by sale of
goods.

47. (1) If the tolls, rates and charges payable to the Board under this Act in respect of any goods are not paid, or if the lien for freight, primage, general average or lighterage, where such notice as aforesaid has been given, is not discharged, the Board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage, general average or lighterage shall, at the expiration of four months from the time when the goods were seized or placed in their custody, sell by public auction the said goods, or so much thereof as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Notice of
sale to be
given.

(2) Before making such sale, at least ten days' notice of the same shall be given by publication thereof by beat of tom-tom, and by posting notices at the public landing-places within the settlement of Aden.

(3) If the address of the owner of the goods or of his agent has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the Board, or is otherwise known, notice shall also be given to the owner of the goods or to his agent by letter delivered at such address or sent by post; but the title of a *bona fide* purchaser of such goods shall not be invalidated by reason of the omission to send such notice, nor shall any such purchaser be bound to inquire whether such notice has been sent;

(4) Provided that, if such goods are of so perishable a nature as in the opinion of the officer appointed by the Board in that behalf to render early or immediate sale necessary or advisable, the Board may, within such period, being not less than twenty-four hours after the landing of the goods as they think fit, sell by public auction the said goods or such portion of them as aforesaid, in which event such notice, if any, shall be given to the owner of the goods or his agent as the urgency of the case admits of. Proviso.

48. (1) The proceeds of every such sale shall be applied as follows :—

Application
of sale-
proceeds,

(a) in payment of the expenses of the sale ;

(b) in payment, according to their respective priorities, of the liens and claims excepted in section 43 from the priority of the lien of the Board ;

(c) in payment of the tolls, rates and charges due to the Board in respect of the goods.

(2) The surplus, if any, shall be paid to the owner of the goods, or to his agent, on his applying for the same : Provided such an application be made within one year from the sale, or reason be shown to the satisfaction of the Board why such application was not so made, and, in case such application shall not be so made nor reason shown, such surplus shall be held by the Board upon trust for the purposes of this Act. Proviso.

49. (1) If the master of any vessel, in respect of which any tolls, rates, charges or penalties shall be payable under this Act, or any bye-law made in pursuance hereof, refuses or neglects to pay the same, or any part thereof, on demand, it shall be lawful for the Board to distrain or arrest of their own authority such vessel, and the tackle, apparel or furniture belonging thereto, or any part thereof, and detain the same until the amount so due shall be paid. Power to
distrain
vessels for
the non-
payment of
rates, etc.

(2) And in case any part of the said tolls, rates, charges or penalties, or of the costs of the distress or arrest or of the keeping of the same, shall remain unpaid for the space of fifteen days next after any such distress or arrest shall have been so made, the Board may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such tolls, rates, charges or penalties, and costs of sale remaining unpaid, rendering the surplus, if any, to the master of such vessel on demand. *
and sell
them.

50. If the Board shall give to the officer of Government whose duty it is to grant the port-clearance of any vessel a notice stating that an amount therein specified is due in respect of tolls, rates, charges or penalties chargeable under this Act, or any bye-law or order made in pursuance hereof, against Port-clear-
ance not to
be granted
till rates,
etc., are paid.

such vessel or the owner or master of such vessel, in respect thereof, such officer shall not grant such port clearance until the amount so chargeable shall have been paid.

Surplus of
port-dues to
be paid to
the Board.

51. The surplus, if any, of the moneys credited under section 36 of the ¹ Indian Ports Act, 1875, to the account of the port fund of Aden after XII of 1875. defraying therefrom all expenses legally chargeable to the said account, shall be paid to the Board.

Control of Pilots.

Trustees to
be vested
with the
right and
privilege of
maintaining
pilots ;

52. (1) The Board shall have the right and privilege of maintaining pilots for the navigation of vessels at the port, and shall be bound to provide a sufficient number of pilots for that purpose, and all fees for pilotage shall be paid to the Board: Provided that no person shall be appointed to be a pilot by the Board who is not for the time being authorised by Government, under the provisions of the ¹ Indian Ports Act, 1875, to pilot vessels.

XII of 1875.

and to make
bye-laws
with the
approval of
Government.

(2) The Board may also, from time to time, make such bye-laws ² and regulations as they shall think fit—

(a) for fixing and regulating the wages and allowances for pilotage to be received by pilots, and

(b) for regulating the behaviour and conduct of pilots ;

and shall enforce the observance of such bye-laws and regulations by the imposition of pecuniary penalties not exceeding two hundred rupees for each offence, or by suspension, or deprivation of appointment, or otherwise, as to them may appear expedient: Provided that such bye-laws shall first have been approved by Government, and published in the manner directed by section 54.

Bye-Laws.

Trustees
empowered to
make bye-
laws.

53. (1) The Board may from time to time make bye-laws ² consistent with this Act and with the ¹ Indian Ports Act, 1875,—

XII of 1875.

(a) for regulating, declaring and defining the wharves, quays, stages, jetties and piers on and from which goods shall be landed from and shipped in vessels within the port ;

(b) for the safe and convenient use of such wharves, quays, stages, jetties, piers, and of landing-places, tramways, warehouses, sheds and other works in and adjoining the same ;

(c) for regulating the reception and removal of goods within and from the premises of the board, and for declaring the procedure to be

¹ See now the Indian Ports Act, 1908, General Acts, Vol. VI.

² For bye-laws, see Bombay Local Rules and Orders.

followed in taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged ;

- (d) for settling the mode of payment of tolls, charges and rates levied under this Act ;
- (e) for licensing and regulating water-boats and lighters within the port ;
- (f) for the removal of wrecks from the port, and keeping clean the port, the foreshore, and the works of the board, and for preventing filth or rubbish being thrown therein or thereon ;
- (g) for the guidance of persons employed by them under this Act, and generally for carrying out the purposes of this Act.

(2) The Board may also from time to time alter or revoke any bye-laws so made by them. •

54. (1) No bye-law, or alteration or revocation of a bye-law, shall have ^{Approval} effect until the same shall have been approved by Government, and such ^{and publica-} approval shall have been published in the Bombay Government Gazette ; and ^{tion of bye-} laws. no bye-law, or alteration or revocation of a bye-law, shall be approved by Government, until a draft of the same, and a notice specifying a date at or after which the draft will be submitted to Government, shall have been published in the Bombay Government Gazette, and in such other manner as Government from time to time prescribe, nor unless the said draft shall have been submitted for their approval through the Political Resident at Aden.

(2) It shall be lawful for Government at any time, by notification in the ^{Cancellation} Bombay Government Gazette, to cancel any bye-law or regulation made and ^{by Govern-} published under the provisions of this and of the two last preceding sections. ment.

55. The Board may, in the bye-laws made under section 53, prescribe ^{Penalties} such penalties as they shall deem fit for the infringement of the same : ^{for infringe-} Provided that no penalty for any one infringement of a bye-law shall exceed ^{ment of bye-} one hundred rupees, nor, in case of a continuing infringement, shall any ^{laws.} ^{Proviso.} penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the Board to the person guilty of such infringement.

56. The Board shall cause the said bye-laws, and every scale of tolls, ^{Bye-laws} rates and charges leviable by the Board, to be printed in the English, ^{and scales} Gujarati and Arabic languages, and to be kept hung up in some conspicuous ^{of rates and} place at each of the several wharves, quays, stages, jetties, piers, warehouses ^{charges to} and sheds belonging to the Board. be exhibited.